Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF	)	ET Docket No. 10-235

COMMENTS OF RADIOSHACK CORPORATION

RadioShack Corporation ("RadioShack") respectfully responds to the Commission's Notice of Proposed Rulemaking seeking comment on, among other things, performance standards for indoor television antennas.[1]

I. INTRODUCTION

RadioShack is a major consumer electronics retailer offering a broad selection of technology products at more than 4,600 stores owned and operated in the United States and Mexico. RadioShack strives to help consumers with issues affecting connectivity and access to technology in the home, including home technology products such as television receivers and antennas. For decades, RadioShack has been one of the largest manufacturers and retailers of television antennas. RadioShack typically manufactures and sells several models of passive and amplified indoor antennas, as well as outdoor antennas – in addition to offering dozens of other models of antennas online. RadioShack is also the parent company of AntennaCraft, a leading

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[1] Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF, *Notice of Proposed Rulemaking*, ET Docket No. 10-235, FCC 10-196 (rel. Nov. 30, 2010) ("*NPRM*").

manufacturer of outdoor antennas. RadioShack was heavily involved in the transition to digital television – both in the sale of converter boxes *and* in providing customers the information and products regarding antenna reception that they needed, and RadioShack is well known in the industry and among consumers for its decades-long history of offering retail solutions to connect and install antennas.

RadioShack believes that empowering consumers and maximizing consumer choices are powerful forces for innovation and growth. Today, over-the-air (OTA) television is providing new and rich entertainment opportunities since the transition to digital. However, the ability to receive the picture also remains technologically complex, based on a number of factors including geography and the band in which the television station is located. RadioShack respectfully submits these comments to respond to the very narrow questions and issues presented in paragraphs 55-57 of the Commission's recent NPRM. RadioShack strongly believes that the public interest is best-served by a market-oriented approach that allows retailers and manufacturers to respond to consumer demands. Mandating rigid standards applicable to all indoor television antennas in a one-size-fits-all manner will constrain consumer choice and hamper the development of innovative antenna products designed to serve consumers' specific needs and interests.

II. THE COMMISSION LACKS STATUTORY AUTHORITY TO MANDATE A SINGLE ANTENNA STANDARD.

In its NPRM, the Commission specifically seeks comment on its authority to establish standards for indoor antennas.[2] In particular, the Commission suggests that its authority under

[2] *Id.* at ¶ 54.

the All Channel Receiver Act ("ACRA"), codified in Section 303(s) of the Communications Act of 1934, as amended, is sufficient to allow the Commission to set standards for the performance of indoor antennas.

In fact, Section 303(s) grants the Commission authority to require that television *receivers be capable* of receiving all frequencies allocated by the Commission, but it does not necessarily follow that the Commission has such authority to either 1) dictate the precise features of *antennas* that consumers must choose or 2) mandate performance of the receiver or antenna.[3] Congress enacted the ACRA to ensure that UHF frequencies did not become less useful because television sets could not receive them.[4] Thus, Congress "sought to ensure that all *television broadcast receivers*, even the most inexpensive, would be able to receive the UHF channels."[5] In this case, however, the Commission's proposed rules would apply not to television *receivers*, but to antennas that customers purchase to improve reception of some channels on a television receiver that is already fundamentally capable of receiving all channels.

Further, courts examining the ACRA have noted that the legislative history of the Act, "clearer than most," demonstrates that Congress "specifically rejected a broad grant of power" to the Commission in deleting a proposed provision that would have allowed the Commission to set

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[3] 47 U.S.C. § 303(s) (providing that the Commission has "authority to require that apparatus designed to receive television pictures broadcast simultaneously with sound be capable of adequately receiving all frequencies allocated by the Commission to television broadcasting....").

[4] *Association of Maximum Service Telecasters v. FCC*, 853 F.2d 973, 979 (D.C. Cir. 1988), citing S. Rep. No. 1526, 87th Cong., 2d Sess. 2 (1962) ("Congress wanted to provide a mechanism to allow UHF frequencies to compete effectively with VHF channels," and determined that "this goal would be achieved by eliminating the basic problem which lies at the heart of the UHF-VHF dilemma – the relative scarcity of television receivers in the United States which are capable of receiving the signals of UHF stations.")

[5] *Association of Maximum Service Telecasters*, 853 F.2d at 979 (emphasis in original).

minimum performance standards.[6] The legislative history indicates that the "authority given to the Commission to require that all channel receivers 'be capable of adequately receiving UHF channels is *narrow in scope*.'"[7] Congress granted this authority "only after the Commission stated that it would 'seek to insure *adequate* or *effective* capability of all-channel reception – and not the best possible capability."[8] The Commission is seeking to impose minimum performance standards, a power Congress specifically determined it was not providing to the Commission, not to ensure that receivers are *capable* of receiving all channels, but to *improve* low-VHF reception. This effort significantly exceeds the Commission's authority.

The Commission has also never used its authority under ACRA to regulate indoor antennas, and such regulation at this juncture would represent a significant departure from the Commission's past practice. Further, it seems arbitrary for the Commission's proposal to regulate indoor, but not outdoor, antennas.

Even if the Commission had authority to regulate antennas to improve over-the-air reception, it does not have the authority to dictate that there be only one standard for all antennas. In fact, for the technical reasons set forth below, one might argue that if the statute's purpose is to ensure basic receptivity, the Commission must NOT implement a performance standard. Adopting rigid performance standards for antennas to ensure a certain grade of

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[6] *See Elec. Indus. Ass'n. Consumer Elec. Group v. FCC*, 636 F.2d 689, 696 (D.C. Cir. 1980), citing S. Rep. No. 1526, 87th Cong., 2d Sess. 22 (1962) (emphasis added).

[7] *Elec. Indus. Ass'n*, 636 F.2d at 695, citing S. Rep. No. 1526, 87th Cong., 2d Sess. 20(1962) (emphasis added).

[8] *Elec. Indus. Ass'n*, 636 F.2d at 695, citing S. Rep. No. 1526, 87th Cong., 2d Sess. 22 (1962) (emphasis in original).

performance in the low-VHF band might have the unintentional effect of limiting antenna performance in other bands, including UHF, which could contradict the purpose of the ACRA.

III. MANDATORY STANDARDS ARE NOT IN THE PUBLIC INTEREST.

There are also compelling reasons why such standards would not be in the public interest. First, as a technical matter, an antenna that complies with the Commission's proposed standards would need to have dipole rods (rabbit ears) in order to receive TV channels 2 through 6 effectively, but these rods would not be required to receive channels in higher bands. Second, an antenna that is so engineered will be more costly and less desirable for consumers, as inclusion of dipole rods adds costs and impacts the form factor of the antenna. The Commission should not force consumers to pay more for antennas that provide capabilities those consumers may not need or want.

A. Adherence to the Commission's Proposed Standards Would Pose Technical Challenges and Would Increase Cost.

The Commission seeks comment on the need to impose standards on indoor television antennas, and specifically proposes to require that indoor antennas comply with the standards set forth in ANSI/CEA-2032-A, "Indoor TV Receiving Antenna Performance Standard," February 2009 (the "CEA Standard").[9] While many of RadioShack's current antenna products are compliant with CEA's standards, there are also many reasons why future products might not be. RadioShack respectfully submits that a government-mandated standard, like CEA's, would pose significant and unnecessary technical challenges in order to satisfy a problem that is not wide-spread.

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[9] *NPRM* at ¶ 55.

Achieving the gain specified in a specific standard for low-VHF requires the use of a dipole antenna, which will necessarily lead to increased costs in design and manufacture, as well as additional testing requirements, that will be passed on to consumers in the form of higher retail prices. Thus, consumers will be forced to pay more for indoor television antennas that offer capabilities those consumers may not even want or need. While the CEA Standard is suitable as a *voluntary* standard, many consumers would not be well-served by *requiring* adherence to the CEA Standard or any other standard.

B. Consumers Should Not Be Forced to Purchase Antennas They Do Not Want or Need.

A dominant trend in home entertainment products over the past several years has been streamlined components that are sleek, attractive and unobtrusive. Thus, consumers have indicated a preference for flat screen televisions, rather than unwieldy boxes, and for wireless options for configuring their home entertainment and computing networks, rather than tangles of wires. Antennas are following this trend, with flat panel antenna designs.[10] In RadioShack's experience, consumers object to dipole antennas and strongly prefer flat panel designs. Further, flat panel antennas fully satisfy the reception needs of most viewers.

The Commission's proposal to mandate performance standards for television antennas would run directly counter to this trend, as the Commission would effectively be mandating large, cumbersome, unattractive rabbit-ear antennas for all consumers, even though many consumers neither want nor need them.[11] Simply put, lower frequency channels require antennas that are capable of receiving longer wavelength signals. Typically, this is achieved by use of

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[10] *See* Attachment 1.

[11] *See* Attachment 2.

longer antenna elements – meaning that antennas that comply with the CEA standard, or any specific performance standard like it, must be larger and bulkier than might otherwise be necessary, with a form factor that consumers do not find desirable.

Further, as noted above, mandating compliance with a CEA-like standard will force consumers to pay more for cumbersome antennas that provide a capability many consumers simply will not need. The reality is that, due to current channel assignments, many consumers only need antennas that will allow them to receive high-VHF or UHF channels. Because most television markets no longer include major stations on lower frequency channels, only a small minority of over-the-air television viewers rely on their antennas for low-VHF channels.

Of course, there are some significant markets where low-VHF reception is critical for consumers who choose to rely on over-the-air signals. However, reception depends on a variety of factors, including viewer location, the topography of the geographic region, transmitter power, building attenuation and receiver sensitivity. In many cases, the amount of gain provided by a flat panel antenna may be sufficient for viewers located within 20 miles of a television transmitter. Some others consumers may want or need the rabbit-eared antennas. Still other may choose to augment their reception with *outdoor* antennas. Ultimately, manufacturers and retailers will naturally seek to provide antennas that meet the needs of this small but significant minority where appropriate. Further, should channel assignments change, such that a greater number of consumers require antennas that provide excellent low-VHF reception, manufacturers and retailers will respond. Forcing *all* indoor antennas to comply with a mandated standard for the benefit of what is presently a small minority of consumers, however, would represent a heavy-handed, overly-broad approach to regulation that is unnecessary and counterproductive.

Furthermore, the imposition of Commission-mandated performance standards may provide consumers the inaccurate expectation that all antennas will improve signal quality for all channels, regardless of other factors. For many consumers, the election to rely on over-the-air broadcast television signals, as opposed to cable, satellite, or fiber-delivered television signals, represents an affordable and reliable choice. It allows them to receive news and entertainment programming without signing up for a subscription service. At the same time this standard would also cause manufacturers and retailers to fail to meet consumer expectations with respect to aesthetics and cost.

RadioShack's sales associates work with customers to select an antenna that meet their needs. As part of that approach, RadioShack has a generous return policy, including a 30-day money back guarantee for returns, that allows customers to return products that do not suit their needs. RadioShack believes that this form of direct customer interaction and education is a particularly effective means of ensuring that customers purchase antennas that meet their needs. If the Commission's concern is ensuring that consumers have information available to them to make informed choices, the Commission could engage in additional educational efforts concerning the use of antennas. Voluntary education campaigns by broadcasters and antenna manufacturers could also help ensure information is readily available and broadly disseminated.

RadioShack strongly supports the right of *consumers* to choose an antenna that best suits their needs. Consumers who wish to purchase a lower-cost antenna that provides them with access to the over-the-air signals they actually want to receive in a small, attractive package should not be prohibited from doing so by a Commission mandate.

IV. CONCLUSION.

For the foregoing reasons, RadioShack respectfully urges the Commission not to adopt rigid, inflexible standards for television antennas, and instead to allow manufacturers and retailers to continue to serve consumer-needs as defined by consumers themselves.

Respectfully submitted,

RADIOSHACK CORPORATION

/s/ Jennifer L. Blum

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ATTACHMENT 1

Terk FM+ FM-Only Stereo Antenna

Terk AM/FM+ Stereo Antenna with Gamma Loop Technology

Terk AM/FM Amplified Stereo Antenna w/Pin-Dot Pre-Tuning

RCA ANT1400 HOME THEATER STYLE MULTI-DIRECTIONAL DIGITAL FLAT PASSIVE ANTENNA

Item# SPM684972901 |Model# ANT1400

ATTACHMENT 2